

## MEMORANDUM

**TO:** LEA Heads

**FROM:** Brad C. Smith  
State Superintendent of Public Instruction

**DATE:** May 8, 2015

**RE:** Fees for Aspire

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If your district or charter is presently using Aspire, starting with the 2016-17 Fiscal Year, you will be required to pay on a per pupil basis for this use. You will not be required to pay for the use of the Aspire system during the 2016 Fiscal Year. The purpose of this memo however, is to explain the likely trajectory of events and the context of this decision.

In November 2013, a provider of a product competitive with Aspire, petitioned the Free Market Protection and Privatization Board (the Privatization Board) to investigate a claim that Aspire constituted unfair competition on the part of the Utah State Office of Education (USOE). On January 8, 2015, after an investigation, the Privatization Board concluded that in providing Aspire unfair competition was occurring. The Privatization Board further determined that privatization of Aspire was feasible. The Privatization Board made a series of five recommendations that included legislative review, promotion of student information system options, making other market concessions, reducing funding to the USOE and shifting those funds to LEAs on a per student basis, and short term funding. The Privatization Board also recommended the privatization of Aspire and related matters. The complete report can be accessed at <http://gomb.utah.gov/wp-content/uploads/sites/7/2015/01/Final-Report-on-USOE.pdf> Members of the Legislature were prepared to run legislation in the 2015 Session to direct the immediate cessation of USOE support for Aspire and for the privatization of this product. After discussion with interested legislators, it was determined that the State Board of Education (USBE) could manage this matter more effectively internally. Accordingly, no legislation was run predicated upon the promise to address the issues in the Privatization Board's memo.

It was the expectation that charging a fee would be feasible for the 2015-2016 School Year and that in charging a fee to users, many of the concerns expressed by the Privatization Board would be covered. In particular, competition with private providers would be leveled because in as much as the product provided by USOE would be close to market rates and any advantage, real or perceived, enjoyed by USOE would evaporate.

In order to charge a fee, fees must be approved by the Legislature. Utah Code Ann. § 63J-1-504 (4) (c). After discussion with the legislative staff members, it was our expectation that the fee would be presented to the Legislature for approval as part of the annual fee schedule in the 2015 Session. This was not done. Accordingly, the USBE presently may not charge a fee for the use of Aspire. There will be no charge for Aspire, therefore, during the 2015-16 School Year and you may plan your budget for the 2016 Fiscal Year without the necessity of budgeting any payment to USOE for the use of Aspire.